

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Joseph M. Jones,

Petitioner,

Hon. Hugh B. Scott

06CV15

v.

**Decision
&
Order**

Thomas Poole,

Respondent.

Before the Court is a petition for habeas corpus relief pursuant to 28 U.S.C. §2254 filed by Joseph M. Jones (“Jones”). The case was referred to the undersigned by Hon. Richard J. Arcara on February 14, 2008. (Docket No. 35). On March 25, 2008, this Court issued a Report & Recommendation recommending that the petition be denied. (Docket No. 37). The petitioner file objections to the Report & Recommendation (Docket No. 38). Shortly thereafter, and prior to the District Court ruling on the objections to the Report & Recommendation filed by the petitioner, each of the parties consented to jurisdiction before the Magistrate Judge in this matter. (Docket No. 40). The Court will treat the petitioner’s objections as if they are a motion for reconsideration of the Report & Recommendation.

The objections filed by Jones merely re-assert the arguments previously proffered in support of the petition. The Court has reviewed the objections and finds that they do not merit reconsideration of the reasoning set forth in the Report & Recommendation. The Court hereby adopts the Report & Recommendation issued on March 25, 2008 (Docket No. 37) as its Decision

& Order with respect to the petition for habeas corpus filed in this case. For the reasons set forth in the March 25, 2008 Report & Recommendation, the petition for habeas corpus relief is denied.

Furthermore, inasmuch as the petitioner has not made a substantial showing of the denial of a constitutional right; or that reasonable jurists could debate whether the petition should have been resolved in a different manner; or that the issues presented are adequate to deserve encouragement to proceed further; a certificate of appealability will not issue. Love v. McCray, 413 F.3d 192 (2d. Cir. 2005); see 28 U.S.C. § 2253(c)(2). Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that an appeal from this order *in forma pauperis* would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S.Ct. 917, 8 L.Ed.2d 21 (1962).

So Ordered.

/s/ Hugh B. Scott

United States Magistrate Judge
Western District of New York

Buffalo, New York
July 21, 2008